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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON
ATTORNEY GENERAL

January 26, 1999

The Honorable Alex Harvin, III
The Majority Leader Emeritus
House of Representatives
304-C Blatt Building
Columbia, SC 29211

Dear Representative Harvin:

You have asked whether a local school district in Clarendon County may approve a charter school application and file it with the State Board of Education without the approval of the County Board of Education. The statutory provisions discussed below indicate that the County Board has no review authority as to the charter application.

S.C. Code Ann. §59-40-60(D)(Supp. 1997) provides, in part, that a charter school applicant "...shall...submit a written charter school application to the local school board of trustees for the school district...." Section 59-40-70(E) further provides in part, that "[i]f a local school board approves the application, ...[a] copy of the charter shall be filed with the State Board of Education." The term "local school board" is used interchangeably with the term "local school district board of trustees" in §59-40-70. Section 59-40-70(D) states that a charter applicant may appeal to the State Board of Education "[i]f the local school board of trustees denies [the] application...." No mention is made in these statutes of review by or appeal to a county board of education.

Given the context of the above referenced statutes and according to the words their plain meaning¹ indicates a legislative intent that school district boards of trustees are to have the above

¹ Applicable rules of statutory construction include the following authority: "... [T]he meaning of particular terms in this statute may be ascertained by reference to words associated with

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duties of reviewing a charter application and that no further review is given by any other local governmental body. Although you have attached a letter to your request which references general statutes regarding the powers of county boards of education², the above charter school related statutes should be controlling as they are the more recent and deal with the subject in a more specific way.³

Accordingly, absent a conflicting local statute that is controlling, a school district board of trustees would have the authority to review a charter school application without the subsequent review and approval of the county board of education. I have located no local statutes for Clarendon County that would change this conclusion for that county.

them in this statute." Southern Mutual Church Insurance Company v. Windstorm and Hail Underwriting Assoc., ___ S.C. ___, 412 S.E.2d 377 (1991).

"In construing statutory language, the statute must be read as a whole and sections which are part of the same general statutory law must be construed together and each one given effect, if it can be done by any reasonable construction." State v. Alls, Op. No. 24788, (S.C. Sup. Ct. 5-18-98)

The "...primary function in interpreting a statute is to ascertain the intention of the legislature." South Carolina Department of Highways and Public Transportation v. Dickinson, 288 S.C. 134, 341 S.E. 2d 134 (1986). "Where the terms of a statute are clear and unambiguous, there is no room for interpretation and we must apply them according to their literal meaning." Id.

² See eg. §59-19-10 (1990), a statute originating in 1919 which provides that school districts are under the management and control of school districts subject to the supervision and orders of the county board of education. Section 59-19-510, et seq. provides for appeals of matters of local controversy.

³ "General and specific statutes should be read together and harmonized if possible But to the extent of any conflict between the two the special statute must prevail." Criterion Insurance Co. v. Hoffman, 258 S.C. 282, 188 S.E. 2d 459 (1972); Ops. Att'y. Gen. (7-12-85). The last passed statute will prevail if the statutes are incapable of any reasonable reconciliation. Yahnis Coastal, Inc. v. Stroh Brewery, 295 S.C. 243, 368 S.E. 2d 64 (1988).

Although arguably the general provisions for county boards of education could be given effect together with the specific charter school provisions to provide for review by the a county board of education, the General Assembly indicated no intent in the charter school law for any local body to have review authority other than the board of trustees.

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This letter is an informal opinion. It has been written by the designated Assistant Deputy Attorney General and represents the opinion of the undersigned attorney as to the specific questions asked. It has not, however, been personally reviewed by the Attorney General nor officially published in the manner of a formal opinion.

If you have further questions, please let me know.

Yours very truly,



J. Emory Smith, Jr.

Assistant Deputy Attorney General